

LONG-TERM AGREEMENT

TV-54501A, Supp. No. ____

This Agreement is between the CITY OF HUNTSVILLE, ALABAMA ("Distributor"), an Alabama municipal corporation, and TENNESSEE VALLEY AUTHORITY ("TVA"), a corporate agency and instrumentality of the United States of America, created and existing under and by virtue of the Tennessee Valley Authority Act of 1933, as amended.

Distributor purchases all of its power requirements from TVA for resale under contract number TV-54501A, effective May 26, 1980, as amended ("Power Contract").

The parties hereby agree to amend the Power Contract to increase the length of and strengthen the contractual relationship to help ensure the long-term success of the public power model, as follows:

SECTION 1 - NOTICE OF POWER CONTRACT TERMINATION

The section of the Power Contract entitled "Term of Contract" is hereby replaced, in its entirety, with the following:

This contract is effective as of May 26, 1980, and will continue in effect for an initial term of 20 years from May 26, 1980, provided, however, that beginning on the first anniversary of said effective date, and on each subsequent anniversary thereof (whether falling during said initial term or any renewal term as provided for herein), this contract shall be extended automatically without further action of the parties for an additional 1-year renewal term beyond its then-existing time of expiration. Notwithstanding any other provision of this section, Municipality may terminate this contract at any time upon not less than 20 years' prior written notice, and TVA may terminate this contract upon not less than 20 years' prior written notice. If Municipality delivers a notice of termination to TVA, as stated above, then from and after its date of receipt of such notice, TVA will have no obligation to make or complete any additions to or changes in any transformation or transmission facilities for service to Municipality, unless (by means of a fully-executed amendment to this contract) Municipality agrees to reimburse TVA for its non-recoverable costs in connection with the making or completion of such additions or changes.

SECTION 2 - BENEFITS

Under the section of the Power Contract entitled "Power Supply," TVA commits to provide all of the power supplied to consumers in the Distributor's service area, at rates as low as feasible, consistent with the public power model. Recognizing the 20-year initial term and the 20-years' termination notice provision established in section 1 of this Agreement, and the other mutual commitments stated in this Agreement, the parties agree to the following:

- (a) For purposes of this Agreement, "**Applicable Rates**" means base rates that are subject to adjustment and are supplied by TVA in accordance with: the "Standard Service" section of the Wholesale Power Rate--Schedule WS (currently on-peak demand, maximum demand, grid access, and non-fuel energy charges), and Schedule TDGSA and Schedule TDMSA only (currently on-peak demand, maximum demand, and all non-fuel energy charges), of the "TOU Service" section of the Wholesale Power Rate--Schedule WS.

Beginning with the first full billing month following the Effective Date, TVA will apply a credit to the Distributor's monthly power invoice equal to 3.1% of the amount that Distributor pays TVA through the Applicable Rates ("**Wholesale Credit**").

Beginning in the TVA fiscal year during which TVA first pays the Wholesale Credit to Distributor, if both of the following conditions occur:

- 1) TVA increases the Applicable Rates: (i) by more than 10% (calculated based on the adjustment to Applicable Rates that is applied across all power distributors served by TVA) during any consecutive five-fiscal-year period that begins after the Effective Date and occurs within 20 years of the Effective Date, compared to the Applicable Rates that are applied as of the end of the TVA fiscal year immediately preceding that consecutive five-year period, or (ii) by more than 5% (calculated based on the adjustment to Applicable Rates that is applied across all power distributors served by TVA), compared to the Applicable Rates that are applied as of the end of TVA fiscal year 2019, prior to September 30, 2024; and
- 2) the parties, after good faith negotiations for up to 180 days after the date that either condition described in subsection 2(a)(1) of this Agreement is met, fail to re-negotiate the terms of this Agreement;

then, if Distributor notifies TVA in writing within 60 days from the end of the 180 day period established in subsection 2(a)(2) of this Agreement, the parties will execute an amendment to the Power Contract, which reduces the termination notice period in subsection (a) of the "Term of Contract" section of the Power Contract to 10 years, and this Agreement will terminate.

- (b) No calculation or determination of Applicable Rates, or any increases or adjustments to Applicable Rates, described in or occurring pursuant to subsection 2(a)(1) of this Agreement, will include or account for rate changes, or changes in the fuel cost adjustment, which apply to or impact Distributor during the term of the Power Contract.
- (c) If Distributor delivers a notice of termination to TVA under the "Term of Contract" section of the Power Contract, then, as of the first full billing month following TVA's receipt of said notice, section 2 of this Agreement will terminate, except that the then-effective Wholesale Credit will be reduced and phased out in equal percentages over each of the following 10 years, with the first equal percentage reduction beginning on the first day of the billing month immediately after Distributor delivers a notice of termination to TVA and reducing to 0% on the first day of the billing month that is 121 months after Distributor delivers such notice.
- (d) During the term of this Agreement, TVA will notify Distributor in writing of additional benefits that TVA elects, in its sole discretion (for example but without limitation, adjustment of the Wholesale Credit percentage above 3.1%), to offer to other distributors of TVA power because they have executed a similar long-term agreement. Distributor will receive the additional benefits, unless Distributor declines by written response to TVA within 90 days of Distributor's receipt of TVA's notice. In addition, TVA will establish a process of engagement with Distributor for strategic resource and financial planning decisions.
- (e) TVA commits to collaborating with Distributor (and other distributors of TVA power who have executed a similar long-term agreement) to develop and provide enhanced power supply flexibility, with mutually agreed-upon pricing structures, for 3-5% of Distributor's energy, by no later than October 1, 2021. If in either of the following cases: (i) TVA does not fulfill its commitment to propose a power supply flexibility solution by the date stated above; or (ii) Distributor does not agree to the TVA-proposed power supply flexibility solution, then, Distributor may elect, by written notice to TVA not later than 90 days from the TVA Board approved implementation date, to terminate this Agreement. Upon Distributor's payment to TVA of an amount equal to 50% of the sum of all Wholesale Credit amounts received by Distributor pursuant to subsection 2(a), this Agreement terminates. The payment amount due from Distributor to TVA under this subsection 2(e) will be calculated as of the date TVA receives said notice.

SECTION 3 - EVENTS OF DEFAULT AND REMEDIES

- (a) **Assignment.** "Assign" or "Assignment" means a party's transfer or disposal of this Agreement, in whole or in part, or any interest in it, to any person or entity that is not a party, including use of this Agreement or any payment or performance obligations under it as collateral.

(b) **Distributor Events of Default.** An event of default, with respect to Distributor, means one or more of the following:

- 1) A sale or transfer of all, or substantially all, of Distributor's tangible or intangible assets that results in a reduction in load served by TVA;
- 2) Distributor's sale or supply of power not supplied by TVA, or Distributor's facilitation of the sale or consumption of power not supplied by TVA by any Distributor affiliate or third party, to or by any end-use customer in Distributor's service area, without TVA's consent prior to the Effective Date or advanced written consent after the Effective Date; or
- 3) Distributor's Assignment of the Power Contract without TVA's prior written consent.

(c) **TVA Events of Default.** An event of default, with respect to TVA, means one or more of the following:

- 1) TVA's breach of its obligations or commitments in subsection 5(a) of this Agreement; or
- 2) TVA's Assignment of the Power Contract without Distributor's prior written consent.

(d) **Notice.** If an event of default occurs, and the defaulting party does not cure its event(s) of default within 60 days of receipt of written notice from the non-defaulting party, then (as applicable) the non-defaulting party may exercise any of the remedies stated in subsection 3(e) of this Agreement, in addition to those remedies available under the Power Contract or pursuant to Applicable Laws.

"Applicable Laws" means those U.S. federal and state laws, regulations, and judicial or administrative decisions, orders (including, without limitation, administrative authority or commission consent orders and confirmatory orders) or injunctions, or any other legal pronouncements of a U.S. federal governmental authority that have the force or effect of law; provided, however, that in no event shall this provision be interpreted as subjecting TVA to any state or federal laws, including any remedies available under such laws, that otherwise do not apply to TVA.

(e) **Remedies.**

- 1) Distributor must pay TVA an amount equal to TVA's actual or estimated losses of revenue and load served, and for all actual or estimated expenses incurred by TVA and resulting from Distributor event(s) of default (subsection 3(b) of this Agreement), including attorneys' fees and other regulatory or administrative costs, measured from the date that any event of default first occurs, and over the remaining term of the Power Contract.
- 2) TVA must pay Distributor an amount equal to the increase in Distributor's actual or estimated costs paid for electric power production and transmission (including wheeling, if applicable), resulting from a TVA event(s) of default (subsection 3(c) of this Agreement), including attorneys' fees and other regulatory or administrative costs, measured from the date that any event of default first occurs, and over the remaining term of the Power Contract, provided that Distributor's claims to payment of any such amounts upon a TVA event of default are subordinate to TVA's prior satisfaction of any and all obligations it has to the holder of any bonds or other financing obligations issued or entered into by TVA, either before or after the Effective Date.
- 3) The non-defaulting party may, by separate written notice to the defaulting party, terminate this Agreement if one or more of the defaulting party's event(s) of default occurs.

(f) **Mutual Waiver.** Neither party's waiver of the other party's breach of the Power Contract, or failure to claim or enforce its remedies upon an event of default in this Agreement, will be

construed to waive any other or subsequent breach or right to claim or enforce an event of default. Neither party's acceptance nor consideration of any untimely notice or information from the other party waives any time limits or schedule deadlines stated in, or issued, or agreed upon pursuant to the Power Contract.

(g) **Rights and Remedies Cumulative.** Either party has the right to pursue any and all rights available under Applicable Laws in the event the other party fails to perform or otherwise breaches any term of the Power Contract not specifically referenced above. Except for the remedies upon event(s) of default, established in subsection 3(e) of this Agreement, all rights and remedies afforded either party under this Agreement are cumulative, in addition to every other right and remedy provided under the Power Contract, by law, or in equity.

SECTION 4 - SUPERSEDING AND VOIDING OF PRIOR AGREEMENTS

As of the Effective Date:

- (a) In the event that the terms of this Agreement conflict with existing agreements between Distributor and TVA, the terms of this Agreement control; and
- (b) the following is of no further force and effect:
 - 1) TV-54501A, Supp. No. 17, effective June 1, 1990.

SECTION 5 - CHANGE IN LAW

- (a) During the term of the Power Contract, TVA commits that, in the case of a disposal of any substantial portion of TVA's power generation or transmission properties, Distributor will not be charged rates for energy or transmission that are not established in accordance with the Tennessee Valley Authority Act, 16 U.S.C. § 831, *et seq.*, as amended and in effect on the Effective Date (specifically, but without limitation, Section 15d(f) of that statute) ("TVA Act").
- (b) Nothing in this Agreement will be construed to limit the sovereign authority of the United States Congress, amend the TVA Act, or impair TVA's obligations under its bonds or other financing obligations, including its obligations under the Basic Tennessee Valley Authority Power Bond Resolution, as amended ("Basic Bond Resolution"). The charges for electric service under the Power Contract are currently established to recover the costs and financial obligations associated with investment to provide wholesale power service as required by the TVA Act, and the Basic Bond Resolution. In the event that a change in law impairs any contractual right, benefit, or interest of either party, or imposes any material increase in cost, or reduction in allocation of capacity or energy, or otherwise materially changes an obligation on either party under the Power Contract, the parties shall promptly meet and discuss in good faith regarding possible changes to the Power Contract to mitigate the impact of the change in law.

SECTION 6 - NOTICES

The parties will deem any notice required by this Agreement to be properly given if the required notice is delivered in writing to the address specified below: personally, by recognized overnight courier service, by United States Mail, postage prepaid, or by electronic mail.

To Distributor:	Chairman Huntsville Utilities Post Office Box 2048 Huntsville, Alabama 35804-2048 Email: _____
To TVA:	Director, Power Customer Contracts, WT 9D-K Tennessee Valley Authority 400 West Summit Hill Drive Knoxville, Tennessee 37902-1401 Email: contractnotices@tva.gov

Any party may change either the designation of any person or the address of any such person at any time and from time to time by similar notice.

SECTION 7 - SEVERABILITY

In the event that any provision of this Agreement is found to be legally unenforceable, such provision will be replaced with a substitute provision that most nearly reflects the original intentions of the parties and is legally enforceable, and the remainder of this Agreement will continue in full force and effect.

SECTION 8 - RELATIONSHIP OF THE PARTIES

No provision of this Agreement or the Power Contract creates or will be deemed to create an agency, partnership, joint venture between Distributor and TVA, or any business relationship between the parties other than that specifically stated in the Power Contract. Neither party has the power or authority to legally bind the other party, or to assume or create any express or implied obligation or responsibility on behalf of the other party.

SECTION 9 - RATIFICATION OF POWER CONTRACT

The parties hereby ratify and confirm that the Power Contract, as amended by this Agreement, is their continuing obligation.

The parties are signing this Agreement to be effective on the date of TVA's signature ("Effective Date").

CITY OF HUNTSVILLE, ALABAMA

By _____

Title: _____

Date: _____

TENNESSEE VALLEY AUTHORITY

By _____

Director
Power Customer Contracts